

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:09-CR-75-D  
No. 4:14-CV-100-D  
No. 4:15-CV-29-D

JEFFERY LEE MCCOTTER, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )

**ORDER**

On January 26, 2015, this court dismissed Jeffrey Lee McCotter's ("McCotter") first motion under 28 U.S.C. § 2255 [D.E. 219]. In that motion, McCotter made various arguments attacking his sentence. See id. On July 27, 2015, the United States Court of Appeals for the Fourth Circuit declined to issue a certificate of appealability and dismissed McCotter's appeal. See United States v. McCotter, No. 15-6454, 2015 WL 4510319 (4th Cir. July 27, 2015) (per curiam) (unpublished).

On August 6, 2015, McCotter filed another motion under 28 U.S.C. § 2255 and raised a new argument attacking his sentence. See [D.E. 229]. The new argument appears baseless in light of how the court calculated McCotter's advisory guideline range. Nonetheless, before filing a second or successive application for habeas relief in the district court, an applicant "shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A); see 28 U.S.C. § 2255(h); Magwood v. Patterson, 561 U.S. 320, 330–31 (2010). Furthermore, this court lacks jurisdiction to review McCotter's latest section 2255 motion unless the Fourth Circuit authorizes such review. See 28 U.S.C. § 2244(b)(3)(A); Burton v. Stewart, 549 U.S. 147, 152–53 (2007) (per curiam); United States v. Surratt, No. 14-6851, 2015 WL

4591677, at \*4–21 (4th Cir. July 31, 2015); United States v. MacDonald, 641 F.3d 596, 603–04 (4th Cir. 2011); In re Williams, 364 F.3d 235, 238 (4th Cir. 2004); United States v. Winestock, 340 F.3d 200, 205 (4th Cir. 2003). McCotter failed to obtain authorization from the Fourth Circuit. Thus, the court dismisses his section 2255 motion as successive. Moreover, this court denies a certificate of appealability. See, e.g., 28 U.S.C. § 2253(c); Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Winestock, 340 F.3d at 206–07.

In sum, McCotter’s section 2255 motion [D.E. 229] is DISMISSED as successive, and the court DENIES a certificate of appealability.

SO ORDERED. This 19 day of August 2015.

  
JAMES C. DEVER III  
Chief United States District Judge